

# C | Memorandum of Agreement for Historic and Archaeological Resources

The Build Alternative would result in adverse effects to the J.B. Williams house and the Thomas farmstead, so a memorandum of agreement regarding these resources was signed by the Federal Highway Administration, the US Army Corps of Engineers, Washington State Department of Transportation, the Washington State Historic Preservation Officer, the Chinook Tribe, and the Cowlitz Indian Tribe in accordance with Section 106 of the National Historic Preservation Act.

A map of the Area of Potential Effects (APE) was attached to the memorandum of agreement and is included in this appendix.

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# **MEMORANDUM OF AGREEMENT**

## **BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, THE UNITED STATES ARMY CORPS OF ENGINEERS, AND THE WASHINGTON STATE HISTORIC PRESERVATION OFFICER**

### **REGARDING THE STATE ROUTE 502 CORRIDOR WIDENING FROM I-5 TO BATTLE GROUND PROJECT**

**WHEREAS**, the Federal Highway Administration (FHWA) is the National Environmental Policy Act co-lead agency for the State Route (SR) 502 Corridor Widening from I-5 to Battle Ground Project (undertaking) located in Clark County, Washington, along with the Washington State Department of Transportation (WSDOT); and

**WHEREAS**, FHWA has determined that the SR 502 Corridor Widening Project is an undertaking, as defined in 36 C.F.R. § 800.16(y), that may have an effect on historic properties, as defined in 36 C.F.R. § 800.16(l)(1); and

**WHEREAS**, the undertaking requires a Section 404-IP permit in accordance with the Clean Water Act of 1972, as amended, and the United States Army Corps of Engineers (USACE) is a jurisdictional agency for implementation of the Clean Water Act; and

**WHEREAS**, FHWA has defined the undertaking's area of potential effects (APE) as areas where construction of additional eastbound and westbound lanes, intersection improvements, and development of wetland mitigation areas and stormwater facilities has the potential to directly or indirectly effect historic properties, should they exist, as depicted in Attachment 1; and

**WHEREAS**, a cultural resources survey of the APE has been completed as required by 36 C.F.R. part 800, including archaeological survey of a total of 190 acres within the direct impact area, and inventory of 89 historic structures within areas of direct and indirect effects;

**WHEREAS**, five private properties totaling 4 acres within the direct impact area of the APE have not been surveyed due to access restrictions; and

**WHEREAS**, FHWA has determined that the undertaking will have an adverse effect on the Thomas Farmstead and James Ballard Williams House, which are eligible for listing in the National Register of Historic Places, and has consulted with the State Historic Preservation Officer (SHPO) in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and its implementing regulations (36 C.F.R. 800) to resolve the Adverse effect on these properties; and

**WHEREAS**, FHWA has determined, and SHPO has concurred, that the undertaking will have no adverse effect upon archaeological site 45CL812, determined to be eligible for inclusion in the NRHP; and

**WHEREAS**, pursuant to 36 CFR § 800.14(b)(3) the Cowlitz Indian Tribe (a federally recognized Indian tribe that may attach religious and cultural significance to historic properties potentially affected by the project) has been identified as a consulting party and invited to concur with this Agreement; and

**WHEREAS**, the Chinook Tribe (a non-federally recognized tribe), for which the APE also has cultural significance, has been identified as a consulting party and invited to concur with this Agreement; and

**WHEREAS**, WSDOT has participated in the consultation; and

**WHEREAS**, in accordance with 36 C.F.R. § 800.6(a)(1), FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

**WHEREAS**, execution of this Memorandum of Agreement by FHWA, USACE, WSDOT, and Washington SHPO; the submission of documentation and filing of this MOA with the Council pursuant to 36 C.F.R. 800.6(b)(1)(iv) prior to this undertaking; and implementation of the terms of the MOA demonstrate that FHWA has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to participate and comment on the consultation process;

**NOW, THEREFORE**, FHWA, USACE, WSDOT, and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

#### **-STIPULATIONS-**

FHWA shall ensure that the following measures are carried out:

#### **I. GENERAL REQUIREMENTS**

- A. This Agreement shall apply only to the SR502 Corridor Widening to Battle Ground Project.
- B. Where required by regulation or permit, WSDOT shall employ professional staff in the fields of Archaeology, History, and Architectural History who meet the requirements of the Secretary of Interior's Professional Qualifications Standards (36 C.F.R. § 61).

## II. RECORDATION OF HISTORIC PROPERTIES

The J.B. Williams House and the Thomas Farmstead shall be recorded so that there is a permanent record of their existence. WSDOT shall contract with a qualified archival photographer and historian to prepare photographic documentation and an historical narrative overview of both properties according to the NPS (HABS/HAER) and Level II DAHP guidelines for documenting historic properties. WSDOT shall ensure that the documentation of these properties is completed and accepted by the DAHP (and distributed to local repositories as appropriate) prior to any demolition or alteration of these properties. The documentation for the Thomas Farmstead will include a detailed site plan that records the original orientation and spatial relationship of the farmhouse, the barns and the outbuildings.

## III. INTERPRETIVE SIGNAGE

An interpretive display consisting of one to two panels of text and illustrations shall be prepared and installed at the Williams property, at the previous location of the house, facing toward the west (the direction of the historic farmland and the new wetland mitigation site). The content of the panels shall be determined in consultation with DAHP, the Clark County Historic Preservation Commission, and the Cowlitz and Chinook Tribes.

## IV. THOMAS FARMHOUSE RELOCATION

A. WSDOT will consult with a qualified building mover to determine if the structure can be relocated elsewhere on the property remainder. If the structure can be relocated, WSDOT will consult with DAHP and the City of Battle Ground, WA to develop and implement a building relocation plan, site plan and building rehabilitation plan (if needed) in accordance with the guidelines recommended in John Obed Curtis' *Moving Historic Buildings*. The building relocation plan shall incorporate the relocation of the Farmstead buildings in orientation and spatial relationship that matches the historic orientation and spatial relationship as closely as possible.

B. If the structure can be relocated and the property owner agrees to relocate the structure, WSDOT will provide compensation to the property owner to facilitate the relocation, including the following:

Reconnect all necessary utility hook-ups, including electrical, natural gas, water, and sanitary sewer (or septic system) at the relocation site.

Secure all necessary permits and approvals of the proposed building relocation route (if needed).

Coordinate temporary relocation of overhead utilities and fences as needed to accommodate the building relocation.

- C. WSDOT shall ensure that any damage incurred during the relocation is repaired and that the condition of the building shall be the same or better when the relocation is complete.
- D. In the event that the Thomas Farmhouse cannot be relocated, the following contingency plan will be followed:

If it is not feasible to move the house, then WSDOT shall ensure that, prior to demolition, a qualified building materials recycling company will remove construction materials and interior fixtures from the house for recycling and/or reuse in other construction projects. If appropriate, decorative or interpretive building elements will be offered to local historical societies/museums for use in interpreting the agricultural history of the region.

#### **V. ARCHAEOLOGICAL SITE PROTECTION PLAN**

- A. WSDOT will prepare a site protection plan describing the extent of encroachment and type and amount of impact that will occur at archaeological sites 45CL812 and 45CL830 and provide the plan to the SHPO and tribes for review and comment.
- B. If engineering plans are altered in the vicinity of 45CL812 and/or 45CL830, such that they encroach upon these sites, the impacts to the site(s) will be reevaluated by FHWA and WSDOT, in coordination with the consulting parties.

#### **VI. ARCHAEOLOGICAL SURVEY OF REMAINING PARCELS**

- A. An archaeological survey of the remaining unsurveyed parcels (listed below) will be completed after those parcels have been acquired by WSDOT, but prior to project construction. The survey will include subsurface investigations similar to the surveys previously completed for the undertaking, and will be conducted by or under the direct supervision of a person or persons meeting the Secretary of Interior's Professional Qualification Standards.
- B. An addendum cultural resources survey report(s), consistent with DAHP guidelines for such documents, will be prepared for all additional archaeological survey work completed under this MOA. The report(s) will be submitted to the consulting tribes and SHPO for review.
- C. If a historic property or properties are identified by the archaeological survey, and WSDOT determines that an adverse effect cannot be avoided, then WSDOT will consult with the SHPO and affected tribes to develop mitigation measures. If the parties can reach agreement on mitigation, WSDOT will record those measures through a letter agreement with the SHPO and affected tribes, and then implement



the measures. If the parties cannot agree, WSDOT will submit the matter to FHWA for resolution in accordance with Stipulation IX.

- D. If archaeological survey of any remaining parcels prior to construction remains unfeasible (due to physical conditions and/or time constraints), archaeological monitoring of those parcels will be employed during construction.
- E. The five remaining unsurveyed parcels are listed here by parcel number, owner, and address:
  - 1. 4-07777, RKM Investments (NW corner of 50<sup>th</sup> & SR 502)
  - 2. 4-07797, Vankoll (NW corner of 67<sup>th</sup> & SR 502)
  - 3. 4-07721, Atkinson (Haasl) (SW of 67<sup>th</sup> & SR 502)
  - 4. 4-07724, Bradford (SE of 67<sup>th</sup> & SR 502)
  - 5. 4-07830, Bates (NW of 102<sup>nd</sup> & SR 502)

#### **VII. REVIEW OF FUTURE DESIGN CHANGES**

If any design changes having the potential to cause effects to historic properties are made to the undertaking outside the current APE, including identification of additional wetland mitigation sites, WSDOT, in consultation with the SHPO and other interested parties, will conduct a cultural resources assessment as required by 36 C.F.R. part 800, to identify and evaluate the effects upon historic properties, and will consult to resolve any additional adverse effects.

#### **VIII. ARCHAEOLOGICAL MONITORING AND POST-REVIEW DISCOVERIES**

WSDOT shall ensure that an archaeological monitoring and unanticipated discovery plan is prepared and reviewed by the SHPO and other interested parties prior to commencement of project construction. The plan will include a description of all project activities requiring monitoring by a professional archaeologist including, but not limited to, monitoring during deep excavations in the Tisch and associated soils of the Mill Creek North mitigation site, and monitoring of any parcels that remain unsurveyed prior to construction due to physical conditions and/or time constraints as described under stipulation VI.D. The plan will also outline procedures to be followed if potential historic properties are discovered, or unanticipated effects on historic properties are found to occur during project construction.

#### **IX. DISPUTE RESOLUTION**

Should any signatory or concurring party to this MOA object to any actions proposed or the manner in which the terms of this MOA are implemented, the signatory parties will consult with the objecting party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:

- A. Forward all documentation relevant to the dispute, including the FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
- B. If the ACHP does not provide comment regarding the dispute within the thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
- C. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

#### **X. AMENDMENTS AND TERMINATION**

- A. Any signatory may propose to FHWA or USACE that this Agreement be amended, whereupon FHWA shall call a meeting of all signatories to consider such amendment. All modifications must be mutually agreeable, in writing, and signed by the signatories.
- B. Any signatory to this agreement may terminate it by providing 30 calendar days written notice to the other parties, provided that the signatories will meet during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. This agreement cannot be terminated without such a meeting.
- C. In the event of termination, prior to work continuing on the undertaking FHWA shall comply with 36 CFR § 800 with regard to all remaining actions under this Agreement. FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

#### **XI. DURATION**

This MOA will take effect immediately upon execution by the Signatory Parties. The terms of this MOA shall be satisfactorily fulfilled upon completion of the project. Unless terminated, this MOA will be in effect until FHWA, in consultation with all signatory and concurring parties, determines that all of its terms have been satisfactorily fulfilled.



**XII. REPORTING**

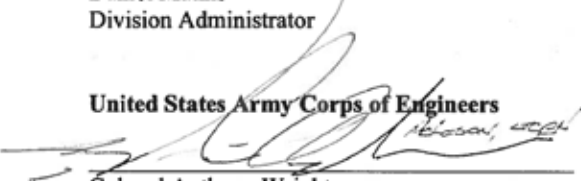
Within 90 days after carrying out the terms of the Agreement, WSDOT shall report to all signatories on the actions taken.

Execution of this MOA by the FHWA, USACE, and SHPO and implementation of its terms evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

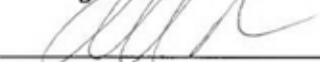
**SIGNATORIES:****Federal Highway Administration**

 Date 01/14/10  
 Daniel Mathis  
 Division Administrator

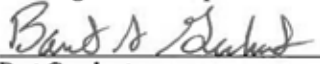
**United States Army Corps of Engineers**

 Date 12-31-2010  
 Colonel Anthony Wright  
 Seattle District Commander and District Engineer

**Washington State Historic Preservation Officer**

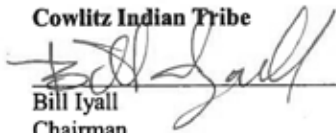
 Date 1/13/10  
 Allyson Brooks, Ph.D.  
 State Historic Preservation Officer

**INVITED SIGNATORIES:****Washington State Department of Transportation**

 Date 12-18-09  
 Bart Gernhart  
 Deputy Southwest Regional Administrator

**CONCURRING PARTIES:**

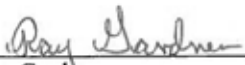
**Cowlitz Indian Tribe**

  
\_\_\_\_\_  
Bill Iyall  
Chairman

Date

1/8/2010

**Chinook Tribe**

  
\_\_\_\_\_  
Ray Gardner  
Chairman

Date

12-23-09



Area of Potential Effect (APE) is shown in gray. The direct impact area to be surveyed for archaeological sites is narrower.



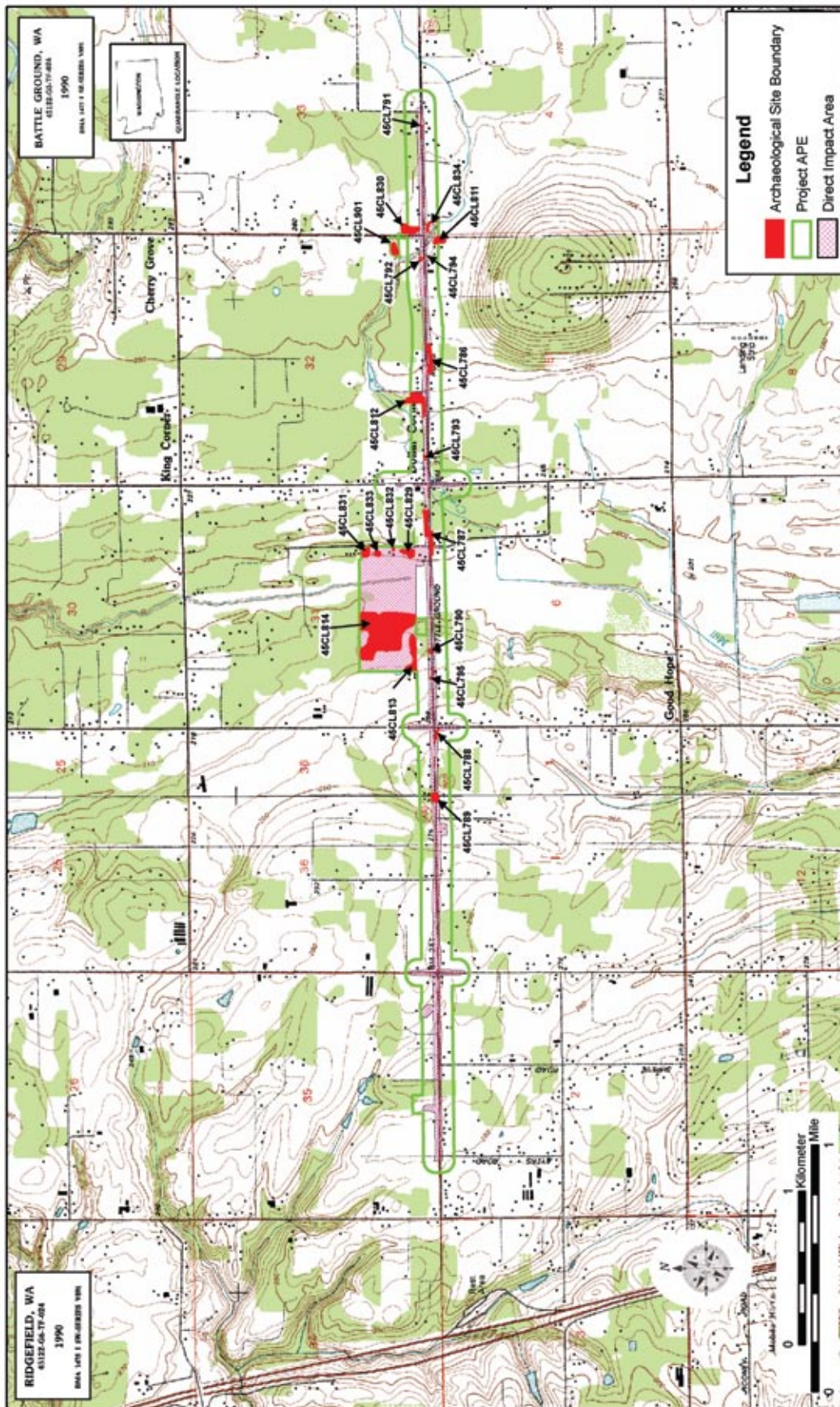


Figure 1. Project APE, direct impact areas, and site locations. (Note: Sunset Oaks Wetland Mitigation Site is also part of the APE but is not shown within this figure.)

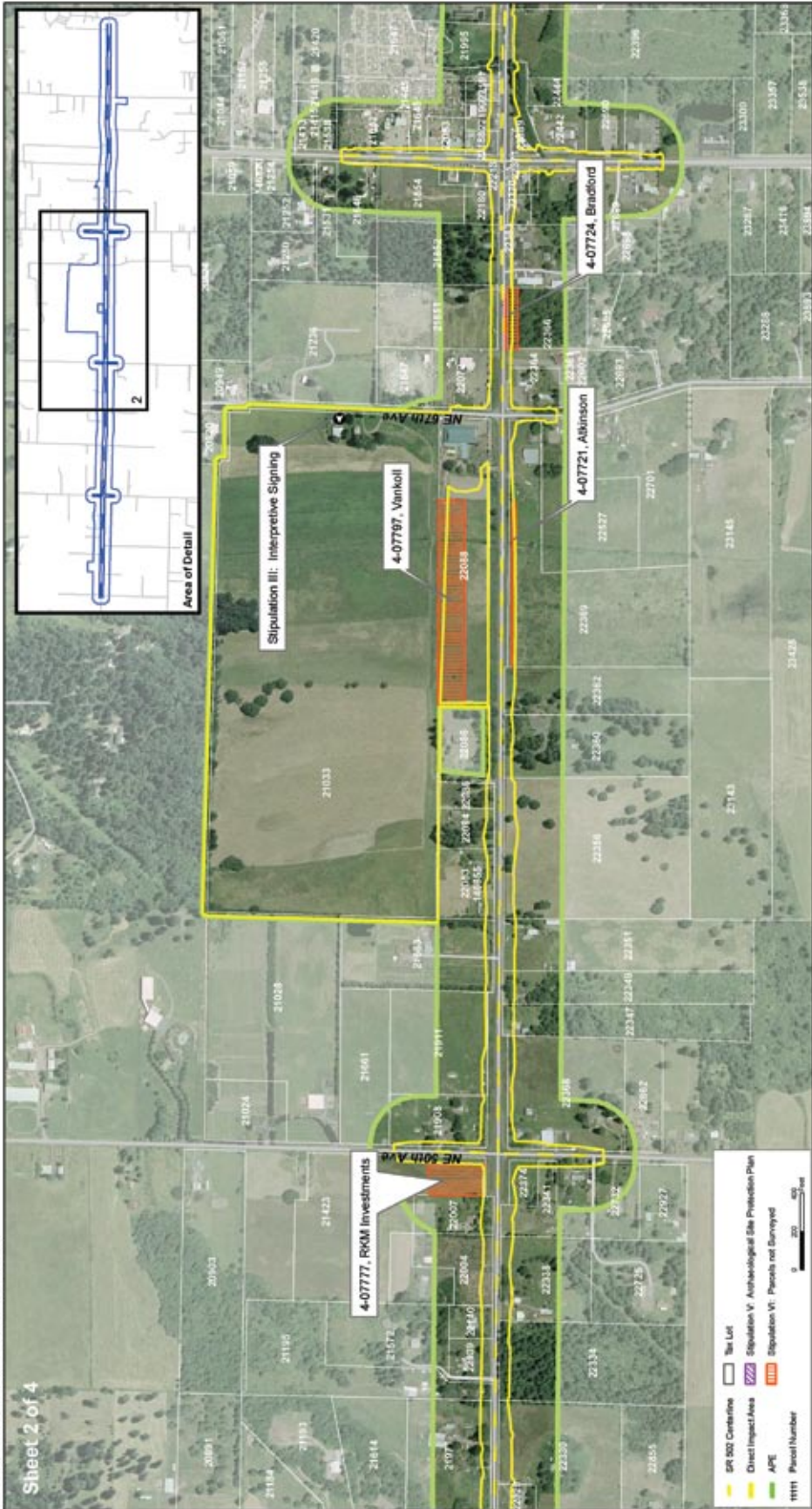






**SR 502 Corridor Widening Project**  
**Area of Potential Effects**  
 December 18, 2009 (Revised)

Sheet 2 of 4



SR 502 Corridor Widening Project  
Area of Potential Effects  
December 18, 2009 (Revised)

